

EXHIBIT C

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

THE WIMBLEDON FUND, SPC (CLASS)
TT),)
)
PLAINTIFFS,)
)
VS.) CASE NO.
) 2:15-CV-6633-CAS-ASJWX
)
GRAYBOX LLC; INTEGRATED)
ADMINISTRATION; EUGENE SCHER, AS)
TRUSTEE OF BERGSTEIN TRUST; AND)
CASCADE TECHNOLOGIES CORP.,)
)
DEFENDANTS.)
)

VIDEOTAPED DEPOSITION OF FRYMI BIEDAK

TAKEN ON

MONDAY, MARCH 25, 2019

Sandra Mitchell
C.S.R. 12553

15:51:31 1 total annually" -- "annual income."

2 Do you see that?

3 A Yes.

4 Q Do you know whether or not Swartz IP ever
15:51:36 5 generated 2 to \$5 million in annual income?

6 A I have no idea.

7 Q And in terms of liquid net worth, over
8 \$5 million, do you have any information about that line?

9 A I have no idea.

15:51:48 10 Q And do you have any information about the total
11 net worth over \$5 million?

12 A No.

13 Q Thank you.

14 This will be Exhibit 26.

15:52:21 15 (Exhibit 26 was marked for

16 identification by the Court Reporter
17 and is attached hereto.)

18 THE WITNESS: You want me to look at this?

19 BY MR. WIECHERT:

15:53:12 20 Q Yes, please.

21 Ms. Biedak, it's a multipage document. And
22 just take a look through. Take as much time as you need
23 to determine what it relates to.

24 A Okay.

15:54:16 25 Q All right. Do you recognize this e-mail and

15:54:18 1 the attachments?

2 A When you say "recognize" -- when was it sent?

3 Q Well, let's walk through --

4 A Eight years ago.

15:54:29 5 Q Let's walk through it.

6 A Sure.

7 Q The from line is from you; correct?

8 A Yes.

9 Q And it's sent on November 10th, 2011 at 4:56 to

15:54:38 10 a seanedr- -- seanedrington@db.com.

11 Do you see that?

12 A Yes.

13 Q And a Alisa Liley is also a recipient?

14 A Yes.

15:54:49 15 Q And do you recall that Sean Ed- -- Edrington

16 was a representative of Deutsche Bank?

17 A Yes.

18 Q As was Alisa Liley?

19 A She was the assistant, I think.

15:54:58 20 Q She was his assistant?

21 A Well, I don't think she, like -- I think she
22 was more like an associate.

23 Q A coequal? They both did work at the bank?

24 A Yes.

15:55:10 25 Q And the subject matter was "Swartz IP Group,

15:55:14 1 Inc., New Account with Deutsche Bank."

2 Do you see that?

3 A Yes, I do.

4 Q The importance on e-mail was high.

15:55:21 5 Now, is that because you designated it as high?

6 A I pretty much put everything as high.

7 Q There was a sense of urgency in everything?

8 A It was always.

9 Q Always a sense of urgency. I get it.

15:55:31 10 The purpose of the e-mail was to provide

11 Deutsche Bank information needed to set up a new account

12 for Swartz IP group; correct?

13 A Yes.

14 Q And so you gathered the information and then

15:55:49 15 you transmitted it by e-mail; correct?

16 A Yes.

17 Q Going through this document -- well, let's

18 start with basically the last two pages.

19 Do you recognize the last page as

15:56:20 20 Mr. Bergstein's driver's license?

21 A Yes.

22 Q Do you recognize what appears to be on the

23 second to the last page a photocopy of the passport of

24 Mr. Bergstein?

15:56:33 25 A Yes.

15:56:38 1 Q You'll also notice that -- one, two, three --
2 four pages earlier, there is a certificate of secretary
3 of Swartz IP Group, Inc. that was bearing the signature
4 of David Bergstein; correct?

15:56:59 5 A Yes.

6 Q Mr. Bergstein was designated the president of
7 Swartz IP on the corporate account authorization. And
8 if you go to page -- let me count them. One, two,
9 three, four, five, six, seven, eight.

15:57:38 10 A Yes. I looked at it.

11 Q All right. Nine and ten. Six, seven, eight
12 nine, and ten. Well, let's do this. All right. I
13 don't want to -- if you can go to the page that states
14 "corporate and other organized entities."

15:58:03 15 A Which page is this?

16 Q I'll make it easier. I'm sorry. And then
17 we'll walk through it.

18 There you go.

19 A Thank you.

15:58:23 20 Q And it appears that the information on the page
21 entitled "Corporate and Other Organized Entities" was
22 inputted on a computer rather than handwritten?

23 A Yes.

24 Q Did you input this information?

15:58:47 25 A It's possible. It could have been also put in

15:58:50 1 by the bank, by Alisa Liley.

2 Q If the bank put it in, would it have been based
3 on information that was provided by someone outside the
4 bank; correct?

15:58:58 5 A That's the way I see it, yes.

6 Q Do you recall providing the bank information
7 about Swartz IP's financials?

8 A I don't -- I don't remember.

9 Q You did, though, ultimately send them the
15:59:11 10 package to open this new account pursuant to the e-mail?

11 A Pursuant to the e-mail, yes.

12 Q Now, you'll notice on the "Corporate and Other
13 Organized Entities" page, there is a box checked for
14 entities' annual income and it shows 1 to \$5 million.

15:59:30 15 Do you see that?

16 A One to \$5 million. I'm sorry. Wh- -- where is
17 this?

18 Q It's about two-thirds of the way down.

19 MR. MCGONIGLE: What page are you looking at?

15:59:47 20 MR. WIECHERT: "Corporate and other organized
21 entities."

22 MR. MCGONIGLE: That is the page before that.

23 THE WITNESS: This one?

24 BY MR. WIECHERT:

15:59:59 25 Q Yes.

16:00:00 1 A All right.

2 Q Two-thirds of the way down, there is a box

3 checked for entities' annual income.

4 Do you see that?

16:00:06 5 A Yes.

6 Q And it shows 1 million to \$5 million?

7 A That's what it says.

8 Q Yes.

9 Do you know where that information came from?

16:00:12 10 A No.

11 Q Okay. But you do know it was submitted to the

12 bank?

13 A If this is the do- -- if -- if this is the

14 e-mail and it lists the documents here, because it says,

16:00:22 15 "completed and signed corporate account authorization"

16 or whatever those -- the -- the three first forms then

17 yes, it was probably submitted to the bank.

18 Q All right.

19 A Most likely.

16:00:32 20 Q And then there is also a checked box for

21 entity's net worth excluding principal residence and it

22 shows \$5 million or more.

23 Do you see that?

24 A I see that, yes.

16:00:43 25 Q And it indicates that approximately 80 percent

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16:00:46 1 of the net worth is in investable asset stocks bonds, et
2 cetera.

3 Do you see that?

4 A Where is this?

16:00:57 5 Q That's about -- that's in the --

6 MR. MCGONIGLE: Right this one here.

7 BY MR. WIECHERT:

8 Q Right under the annual income and net worth.

9 A Yes.

16:01:05 10 Q Yes.

11 A I can see it, yeah.

12 Q Do you know whether Swartz IP at the time that
13 this information was submitted to the bank had
14 investable assets of approximately \$4 million or more?

16:01:25 15 A I wouldn't know one way or the other.

16 Q If you go to the next page, it says "Authorized
17 Parties Details."

18 Do you see that?

19 A Appro- -- yes, I do. I do.

16:01:41 20 Q All right. And there is only one authorized
21 party there; correct?

22 A That's David Bergstein.

23 Q And was that his legal address, 6433 Topanga
24 Canyon Boulevard, Suite 154, Canoga Park as of

16:01:57 25 November 10th, 2011?

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16:02:01 1 A I -- I would have not put this address in.

2 Q Why not?

3 A Because I was not -- I never used his address

4 for -- for -- for anything. I would have put in

16:02:15 5 probably the -- the Colorado address.

6 Q What was his address? What was there at 6433

7 Topanga Canyon --

8 A It was a mailing address. I think it was a

9 mailing address for David Bergstein.

16:02:25 10 Q It was David Bergstein's mailing address?

11 A I think so, yes.

12 Q Is there actually a suite there or is it just a

13 mailbox?

14 A I think it's a mailing -- I think it's a

16:02:35 15 mailbox.

16 Q If you go farther down, it shows a business

17 phone of (310) 828-1515.

18 A That is my direct line. Still is.

19 Q That's your direct line, not Mr. Bergstein's

16:03:01 20 direct line?

21 A My direct line.

22 Q And there is a cell phone number of

23 (213) 618-3036.

24 Whose number is that?

16:03:09 25 A That used to be David Bergstein's.

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16:03:16 1 Q All right. If you go to the next page.

2 A (Witness complies.)

3 Q For account contact, they identify you as the
4 assistant to David Bergstein.

16:03:30 5 Do you see that?

6 A Yes.

7 Q So when this was submitted, you were identified
8 to the bank as the account contact for the Swartz
9 account?

16:03:42 10 A No. Not really. I was assistant to David
11 Bergstein who basically gave the paperwork.

12 Q So who was the bank's account contact for this?

13 A For the accounting, I have no idea.

14 Q Not for an accounting standpoint.

16:04:01 15 But if the bank had a question about the Swartz
16 IP account based on this paperwork that you submitted,
17 who would the question go to?

18 A Well, they would probably call David Bergstein.

19 If he didn't answer the phone, they probably would call

16:04:14 20 me and ask me to go to -- get in touch with
21 Mr. Bergstein.

22 Q And you can look through the document to -- or
23 take my representation, but Mr. Jam was nowhere
24 mentioned in any of these papers; correct?

16:04:28 25 A I didn't see his name, no.

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16:04:35 1 Q Now, if you go two pages over, there is a
2 corporate account authorization and terms and conditions
3 officer certificate.

4 Do you see that?

16:04:50 5 A Yes.

6 Q And it identifies David Bergstein as having
7 what title with Swartz IP?

8 A It says here "president."

9 Q And then does he sign as president on this
16:05:14 10 document?

11 A It's a signature stamp.

12 Q Yes.

13 And on the next page, does he also have a
14 signature stamp appear as president of Swartz IP?

16:05:27 15 A Yes.

16 Q And does it also appear as secretary of Swartz
17 IP?

18 A Yes.

19 Q Mr. Bergstein was the sole signatory on the
16:05:43 20 Swartz IP account; correct?

21 A Well, that, I don't know.

22 Q Do you know of anyone else who was?

23 A I wouldn't know either way.

24 Q Do you recall that once this account was
16:06:26 25 opened?

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16:06:30 1 A Are you talking about the account with Deutsche
2 Bank?

3 Q Yes.

4 A Uh-huh.

16:06:34 5 Q Once the Deutsche Bank account was opened that
6 there were a number of transactions that took place
7 through the Deutsche Bank account?

8 A I found out later about that.

9 Q You found out later about that?

16:06:46 10 A At the time of discovery.

11 Q Okay. Let's mark as Exhibit 27 an e-mail from
12 David Bergstein to Sean Edrington as well as the related
13 e-mail that copied you.

14 (Exhibit 27 was marked for

13:30:33 15 identification by the Court Reporter
16 and is attached hereto.)

17 BY MR. WEICHERT:

18 Q And if you look at the e-mail on the bottom of
19 Exhibit 27, that's the one that's earlier in time.

16:07:26 20 It was sent from David Bergstein to Sean
21 Edrington, copied to Alisa, who's at the bank and you;
22 correct?

23 A Yes.

24 Q It's a 10:09 a.m. Pacific Standard Time;

16:07:44 25 correct?